HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 168 of 2006 (SS)

Umesh Chandra Tiwari w/o Sri Mathura Dutt Tiwari
R/o Village Alchan P.O. Chanfi
District Nainital ..... Petitioner

Versus

1. State of Uttaranchal
2. Additional Chief Conservator of Forest
3. D.F.O. Nainital
4. Forest Range Officer, Bhawali Forest Rang
5. State of U.P. ..... Respondents

Sri Harendra Belwal, Advocate for the petitioner
Standing counsel for the respondents.

Dated: February 17, 2006

Hon'ble Rajesh Tandon J.

Heard Sri Harendra Belwal counsel for the petitioner and Standing counsel for the respondents. Both the parties are agreed that the petition be disposed of finally at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of mandamus direction the respondents to reinstate the petitioner in the employment of Forest Department.

Briefly stated the petitioner was engaged as daily labourer in the Forest Check Post, Chanfi in the year 1993 and had worked continuously in the Forest Department. According to the petitioner on 30.8.1996 some trucks loaded with forest produce crossed the Forest Check Post without entry in the register. Owing to this negligence Sri Gopal Dutt Joshi, Rasin

Chaukidar was suspended and enquiry was ordered against him but the petitioner was not allowed to work further by oral order. The petitioner has submitted that Sri Gopal Dutt Joshi was not found guilty in the departmental proceedings and he was reinstated in service vide order No. 27/1616 dated 10.3.1998. The petitioner has also claimed reinstatement on the ground of parity.

The petitioner has stated that he has made a representation to the Conservator of Forest South Kumaun Circle, Uttaranchal through the Forest Range Officer Bhowali. His representation was forwarded by the Forest Range Officer, Bhowali with recommendation. The Forest Range Officer made a remark on his representation that the petitioner had worked on the direction of the Gate Incharge and he was not in fault at all. The endorsement made by the Forest Range Officer on the representation to the following effect which is annexure-3 to the writ petition:

मूल रूप से प्रभागीय वनाधिकारी नैनीताल वन प्रभाग की सेवामें अग्रसरित करे। श्रमिक की पुनः सेवामें स्थापित करने की संस्तुति की जाती है चूकि कार्य गेट प्रभारी के निदे ा पर ही किया जाता है।

From the above endorsement of the Forest Range Officer it is clear that the petitioner was doing work at the Gate under the instructions of Gate Incharge and he cannot be held guilty for slackness in his official duty. Sri Gopal Dutt Joshi has been reinstated in the service. Therefore, the petitioner is also entitled to be reinstated. He is a daily labour and a marginal employee in the Forest Department.

In view of above, a writ of mandamus is issued directing the respondents to reinstate the petitioner within a week after the receipt of the certified copy of this order. However, he will

not be entitled for any back wages for the period he was out of job.

Accordingly, the writ petition is allowed. No order as to costs.

Rajesh Tandon J.

Dated: 17.2.2006

*Dhyani